

**RESOLUTION AUTHORIZING THE DEPUTY MAYOR TO EXECUTE A CONTRACT
WITH RIVER STREET PLANNING
TO CONDUCT DEVELOP A NEW ZONING ORDINANCE**

WHEREAS, the City solicited proposals from qualified vendors to undertake a full review and revision of the City's Zoning Ordinance and received three responses; and

WHEREAS, a team led by River Street Planning submitted a proposal in response; and

WHEREAS, River Street Planning was deemed by a review committee to be the most qualified bidder with the most realistic plan and capacity to perform this task in a timely manner;

NOW THEREFORE BE IT RESOLVED, that the City Council hereby authorizes the Deputy Mayor to execute a contract with River Street Planning, in substantial conformance with the contract attached hereto and made a part hereof.

Approved as to form, March 7, 2019

James P. Caruso Esq., Corporation Counsel

Steven Strichman
Commissioner



Patrick Madden
Mayor

**Department of Planning and
Economic Development**

To: City Council
Re: Implementation Grant Consultant Selection - Zoning Ordinance

February 15, 2019

From: Steven Strichman, Commissioner of Planning and E.D.

An RFP was issued for consultant services to review and rewrite the City's Zoning Ordinance. Funding for the undertaking will be provided 50% by New York State Department of State and 50% from the TRF.

Three responses were received and two were under the budgeted \$200,000. A 5 member review committee led by Assistant Planner James Rath selected the team lead by River Street Planning.

Submissions:

<u>Lead Firm</u>	<u>Cost</u>	<u>Score</u>
River Street Planning	\$199,450	1
Cycle Arch & Planning	\$231,988	2
AKRF/E3	\$195,360	3

I would like to recommend approval of River Street at the March 7th City Council meeting. This will allow us to commence with the Zoning process immediately and ensure that initial meetings may be held prior to the summer.

DRAFT AGREEMENT

Made this ____ th day of February 2019 by and between River Street Planning and Development, LLC (hereinafter "River Street"), a Limited Liability Company with offices at 4 Ridge Road, Troy, New York 12180 and The City of Troy, a municipality with offices at City Hall, 433 River Street, suite 5001, Troy, NY 12180 (hereinafter "City").

WITNESSETH:

WHEREAS, The City is updating its Zoning Ordinance with support from the New York State Department of State, and;

WHEREAS, Professional consulting services are required to complete the project and River Street possesses the technical expertise to assist the City and lead a team to accomplish the tasks outlined in Appendix A; and

WHEREAS, the parties hereto are desirous of entering into an agreement to complete the scope of work in Appendix A;

NOW, THEREFORE, the parties do hereby agree as follows:

SCOPE OF SERVICES

1. River Street will complete, to the satisfaction of the City and New York State Department of State (NYS DOS) hereinafter collectively described as the "Planning Partners", all services and tasks and provide all deliverables and other materials, covered by this contract as outlined in the scope of services in Appendix A.
2. River Street will comply with all applicable terms, conditions and tasks contained in the Agreement between the City and NYS Department of State (#C1000683). In the event of a conflict between this agreement and the State Assistance Agreement or the Memorandum of Agreement, the terms of the State Assistance Agreement will control.

REMUNERATION

1. Contract documents will consist of this written agreement and two written Appendices (A and B), which are attached and incorporated by reference into this agreement. Appendix A contains the contracted scope of services. Appendix B contains the schedule of values assigned to the tasks outlined in the scope of services, which forms the basis for all payment requests submitted by River Street.
2. For the provision of the total scope of services under contract number C1000683 outlined in Appendix A for, River Street will be paid the sum of One Hundred Ninety Nine Thousand Four Hundred and Fifty Dollars (\$199,450.00) and such sum will become due and payable as described below. It is understood that the final appendices will be updated following a scoping session with the City and River Street and modified to the satisfaction of both parties as appropriate.

3. River Street will have earned upon satisfactory completion of work described in Appendix A, the value ascribed to each work item in accordance with the attached Appendix B.
4. Amounts earned by River Street will become due and payable within thirty (30) days of the submission of a complete invoice for approved services presented by River Street to the City in a monthly voucher for payment including a description of the work completed and the amounts earned for such work on a percentage completion basis.
5. Under no circumstances will any payment to River Street or its subcontractors, in whole or in part, be contingent upon the timing or availability of payment to the City for reimbursement of their claims, payment requests or invoices by the NYSDOS or any other funding source.
6. The contracted fee is based on the distribution of work outlined in the scope of work and does not include costs related to electronic data storage, technical web-site related services or maintenance, paid publicity and advertising, components of surveys (including printing, distribution or postage), refreshments or the additional reproduction of written documents, maps or graphics beyond the quantity contracted.
7. This is a labor only contract. The total amount payable of One Hundred Ninety Nine Thousand Four Hundred and Fifty Dollars (\$199,450.00) under contract C1000683 includes any and all customary expenses. No expenses will be invoiced, and no expense documentation will be maintained by River Street or any of its subcontractors.

TERM OF AGREEMENT

1. This Agreement will become effective as of the date first written above.
2. No changes, modifications, or amendments to the terms and conditions of this agreement will be effective unless mutually agreeable and reduced to writing in hard copy, numbered, signed and dated by the duly authorized representative of River Street and the City.
3. Either party may terminate this agreement with thirty (30) days' written notice sent by certified mail.
4. If the need arises, a reasonable extension of time for completing any aspects of the work described in the Appendix A may be granted by mutual agreement of River Street and the City.
5. This agreement may not be subcontracted, assumed, or assigned to any entity, apart from identified team members, without the prior written approval of the City.
6. Upon termination of this agreement, all finished and unfinished materials prepared by River Street under this agreement will become the property of the City and the NYS DOS. River Street and its subcontractors may retain and use copies of these documents as reference materials for future projects or as examples of work performed in the solicitation of business with prospective clients. If this agreement results in any copyrighted material, River Street or its subcontractors are free to copyright the work, but the City reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to

authorize others to use, all copyrightable material produced under this agreement.

7. This Agreement will terminate no later than December 31, 2020. At contract execution, it is estimated that River Street's work will be substantially complete by April 1, 2020.

ACCESS AND MAINTENANCE OF RECORDS

1. Access will be granted to the City and the NYSDOS or any of their duly authorized representatives at all reasonable times during the period of this contract and to any components, including but not limited to books, documents, papers, and related materials which are directly pertinent to this agreement for the purpose of making audit, examination, excerpts and transcriptions.
2. River Street will retain all of the required records for three years after final payment is received and all other pending matters are closed or for such longer period if any is required by applicable New York State statutes.
3. River Street will make a good faith effort to comply with the NYS Freedom of Information Law (FOIL) as required for a project of this nature. Under no circumstances will deliberative materials or communications ordered by and contracted to the City that are exchanged for discussion purposes not constituting final policy decisions including interim work products generated by River Street (Public Officers Law §87(2)(g), and/or privileged, pre-decisional draft documents (Public Officers Law § 87(2)(g), Fed. R. Civ. Proc. 26(b)(3); F.R.E. Rule 501, 40 CFR § 300.810 (c) and (d), be released by River Street without specific written direction by the City.
4. River Street will make a good faith effort to meet or exceed goals established by the City and NYS DOS regarding utilization of Minority and Women Business Enterprises.

EMPLOYMENT STANDARDS

1. River Street will not discriminate against any employee, for employment because of race, color, sex, religion, sexual orientation, gender identity, national origin, age, or disability.

INSURANCE

1. River Street will purchase from, and maintain in, a company or companies lawfully authorized to do business in New York State, insurance for a term through the completion of the agreement. Upon request by the City, insurance will be evidenced by the furnishing of certificates of insurance for coverage of the extent of the limits of River Street's existing policies or the following limits, whichever is greater, but at a minimum the following coverage: General Liability Insurance of not less than \$1.0 million for liability and medical coverage; personal injury of \$1.0 million; automotive insurance in the amount of \$500,000.00.
2. Subcontractors to River Street engaged in any technical trades including engineering, surveying, geotechnical analysis, preparation of bids and specifications, landscape architecture, architecture, urban

design or any related fields will maintain a Professional Liability Insurance Policy, including coverage for errors and omissions, negligence and consequential damages, will be maintained in the amount of one million dollars (\$1.0 million). Each subcontractor will warrant that it will maintain continuous, equivalent coverage until completion of work and for at least three years after contract completion. If necessary, modifications to coverage limits may be negotiated subject to approval of both parties.

3. River Street will purchase from and maintain in a company or companies lawfully authorized to do business in New York State, Workers' Compensation and Disability Benefits Law including Family Leave Coverage consistent with the New York State requirements and such other forms of insurance, which the firm is required by law to provide.
4. River Street acknowledges and agrees that neither River Street nor its agents, subcontractors, officers, or employees will be covered by any Worker's Compensation Insurance policy or Disability Insurance policy maintained by the City, and that River Street will be solely responsible for maintaining such coverage to the extent required by law.

INDEMNIFICATION

1. To the fullest extent permitted by law, River Street and the City will agree to mutually hold harmless, and indemnify the other party and its directors, officers, agents and employees, anyone employed directly or indirectly by any of them, affiliates or successors against any and all claims, loss, liability, liens, damage, or expense, including any direct, indirect or consequential loss, liability, damage, or expense caused by or resulting from either party's negligent acts whether actual or alleged. Both River Street and the City are mutually obligated to inform the other immediately when a covered claim arises by e-mail and in hard copy writing by certified mail. Failure to give proper notice does not relieve the party of its defense obligations.

DISPUTES

1. With the mutual and voluntary agreement of River Street and the City, mediation by a neutral professional mediator may be pursued as the primary form of dispute resolution as an alternative to formal litigation. The venue for dispute resolution will be Rensselaer County, New York, unless mutually agreed otherwise. Disputes relating to negligence, gross negligence, recklessness and willful and wanton conduct or other actions excepted under the indemnification clause above, on the part of River Street or the City are explicitly excluded from mediation and will be pursued in a Court of competent jurisdiction.

MISCELLANEOUS

1. River Street agrees that none of its agents, officers or employees will hold themselves out as, nor claim to be, an officer or employee of the City, and that neither River Street, nor any of its agents, officers or employees will by reason therefore, make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the City.
2. River Street's failure to perform any term or condition of this Agreement as a result of conditions beyond its control such as, but not limited to, war, strikes, fires, flood, other disasters, acts of God, governmental

restrictions, power failures, illness, damage or destruction of any network facilities or servers, failure of suppliers, subcontractors, and carriers, or party to substantially meet its performance obligations will not be deemed a breach of this Agreement.

3. River Street will submit electronic copies of each draft product and each final product. In addition, final documents will be provided in Microsoft Word and Adobe PDF formats at 300 DPI. GIS products will be provided in ArcGIS format and comply with NYSDOS standards. All pictures and photos will credit the photographer. River Street will submit to the City and NYSDOS all required products, clearly labeled with the Comptrollers Contract Number (#C1000683) and where applicable the related task number from the Work Program. All final products will be submitted on a USB drive labeled with City of Troy, the NYS DOS contract #, and project title. Electronic data for all designs, drawings, and plans will be submitted in the original software upon request as well as in JPEG or GIF format.
4. River Street will ensure that all materials, printed, constructed, and or produced as part of this project will contain the following acknowledgement: "This report [or document or map or etc.] was prepared with funding provided by the New York State Department of State under Title 11 of the Environmental Protection Fund." The contributions of all State agencies will be acknowledged in all community press releases or other notices and in public meetings related to the project including digital forms of communications.

ENFORCEMENT

1. This Agreement has been executed in New York State and all rights, duties, and obligations hereunder will be governed by the laws of the State of New York.
2. In the case that any one or more provisions contained in this Agreement will for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such provision had never been contained herein.

EXECUTION

1. This contract will be executed in two counterparts, with each party hereto retaining a fully executed original.

AGREED TO:

For the City of Troy

For River Street Planning & Development

By: _____
Monica Kurzejeski, Deputy Mayor

By: _____
Margaret Irwin, Principal

ATTACHMENT A: SCOPE OF WORK C1000683

COORDINATION

This component includes three tasks:

- **Second Project Meeting (Task A6):** River Street, the City, the Department and other project partners as appropriate, will meet to review project requirements, site conditions, and roles and responsibilities; identify new information needs and next steps; and transfer any information to the River Street Team which would assist in completion of the project. River Street will prepare and distribute a brief meeting summary clearly indicating the agreements/understandings reached at the meeting. Work on subsequent tasks shall not proceed prior to Department approval of the proposed approach as outlined in the meeting summary.
- **Staff Coordination Meetings (Task A6)** This task also includes periodic coordination with City Staff and the Department.
- **PAC Meetings (Task 2):** River Street will plan, attend and document PAC meetings. Six meetings of the PAC are planned.

Products: Second Project Meeting, coordination and PAC Meetings held with appropriate parties. Written meeting summary outlining agreements/understandings reached for all meetings.

COMPREHENSIVE AUDIT AND SCANS

This component includes one task:

- **Background Review and Assessment of Current Ordinance (Diagnostic Audit) (Task A8):** River Street will confirm the public engagement strategy and undertake a comprehensive review and assessment of the existing zoning ordinance. The review and assessment will highlight gaps, areas of over regulation, as well as areas of misinterpretation and incompatibility. This phase will include a review of implementation projects to understand how zoning can be misapplied and how to safeguard against this. A review of other ordinances/form-based codes will also be undertaken to suggest the range of zone types, code and form considerations that could be developed within a new zoning ordinance. This phase of work will result in a full assessment of the existing zoning ordinance, variance application analysis where data is available and will provide a set of points of departure for an updated ordinance. It will also include scans of neighborhoods, downtown and corridor scans examining market, commercial viability, climate change risk, etc.

Products: Full diagnostic audit and assessment of existing zoning ordinance, implementation projects, other ordinances, and form-based code options. in order to provide departure points for the updated ordinance.

DRAFT CODE PREPARATION

This component includes three tasks:

- **Recommended Zoning Structure (Task A8):** River Street will develop a simplified zoning structure based on the general parameters of the City's existing built environment and future direction provided in the City's Comprehensive Plan and through consultation with the City staff, the PAC. The public and NYSDOS. It will categorize differences in built form related to density, scale, architecture, and integration with the public realm. The recommended zoning structure will aim to ensure a greater mix of compatible uses and provide direction for future land use and development along transportation and utility corridor. It will also address special conditions including hazards, flood prone areas and known or perceived brownfield areas. This system will be the foundation for the zoning districts, any overlays and the zoning map.

Products: Completed recommended zoning structure submitted to the Department for review and approval.

- **Development of Draft Zones and Map (Task A9):** River Street will develop a series of district and corridor zones based on an understanding of the Comprehensive Plan, areas of change, gradual change, stability, and reinvestment as well as the land use structure and classification system. A description of permitted built form characteristics will be provided in each zone utilizing tables, narrative and graphic illustrations when practical to present information. This description will include but not be limited to: building location and orientation; setbacks; height; density; architectural elements, public realm components; and green infrastructure.

Products: Report, describing district and corridor zones using text, tables and a range of supporting maps and preliminary illustrative drawings.

- **Development of Draft Zoning Ordinance (Task A11):** River Street h will prepare a comprehensive new zoning ordinance. The document will be organized into a series of sections which covering all aspects of a modern New York State zoning code and reflecting the current City regulations related to enabling, approvals, administration and enforcement legislation.

Products: Draft Zoning Ordinance and Map using text, supporting maps and illustrative drawings.

COMMUNITY ENGAGEMENT

This component included three tasks:

- **Public Consultation (Task 10A):** A high level of community, stakeholder and administrative engagement is anticipated during each phase of the creation of the new zoning ordinance. A community engagement plan will be developed. A range of engagement techniques will be employed such as public information sessions and open houses, stakeholder and small group work sessions, a project webpage, and presentations and updates to City Council. The intent of the consultation activities will be to solicit public review and feedback on the work created in each phase and, subsequently, to refine project directions and work tasks. In addition to the first and second public meetings up to two additional meetings may be conducted.
- **First Public Meeting (Task A10):** In consultation with the Department, a public information meeting shall be conducted to solicit public input on the draft zoning report. A written summary of public input obtained at this meeting will be prepared and provided to the Department for review and comment.

- **Second Public Meeting (Task A12):** In consultation with the Department, a public information meeting will be conducted to solicit public input on the draft zoning ordinance. A written summary of public input obtained at this meeting shall be prepared and provided to the Department for review and comment.

Products: Public information meeting held. Minutes/Summary of meeting prepared and submitted to the Department.

FINAL CODE PREPARATION, SEQR AND ADOPTION

- **Approval of the Zoning Ordinance (Task A13):** Based on input and feedback following City administrative, public, stakeholder and Department review and after completion of the State Environmental Quality Review process, the ordinance will be refined to best meet the needs of the City. The cumulative environmental impact of adopting the new zoning ordinance will be evaluated using the proper SEQR process. A public review period will provide the public with an opportunity to submit official comments prior to finalization and adoption of the ordinance by City Council.

Products: Updated Zoning Ordinance with SEQR compliance approved by City Council

ATTACHMENT B: C1000683

SCHEDULE OF VALUES

RIVER STREET PLANNING TEAM - CITY OF TROY ZONING ORDINANCE SCHEDULE OF VALUES

NYS DOS TASK	VALUE	COMPARISON TO PROPOSAL BASE SCOPE OF WORK TASKS
COORDINATION		
PAC Meetings (Task 2), Zoning Project Meetings (Task A6)	\$25,000.00	PAC & Planning Commission & Staff Mtgs.
COMPREHENSIVE DIAGNOSIS/SCANS		
Background and Current Ordinance Review (Task A7)	\$52,000.00	Current Zoning Evaluation
		Review of Comp. Plan & Other Strategies
		Nbhds., Downtown & Corridors Scans
COMMUNITY ENGAGEMENT		
Public Consultation and First Public Meeting (Task A 10) and Second Public Meeting (Task A12)	\$3,000.00	Outreach, PR and Website
	\$28,500.00	Focus groups, interviews & additional meetings
		Community Workshop 1: Code Concepts Review
		Community Workshop 2: Present Draft Code
DRAFT CODE PREPARATION		
Prepare Draft Zoning (Task A11)	\$78,450.00	Draft Code Development
FINAL CODE, SEQR & ADOPTION		
Prepare Final Zoning, Complete SEQR and Adopt the Code	\$7,500.00	Final Code Revision
	\$5,000.00	SEQR (Long Form EAF)
		Adoption Public Hearings
	\$199,450.00	SUBTOTAL BASE BID
OTHER RECOMMENDED TASKS		
	\$6,500.00	Climate Adaptation Scan
	\$7,500.00	Brown Bag Lunch Talks
	\$13,000.00	Nbhd. Open Houses (8)
	\$3,000.00	City Officials Summit
	\$30,000.00	SUBTOTAL RECOMMENDED TASKS